

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Jack Lindsay Riddle,

Plaintiff,

vs.

Major Marshall Stowers, Deputy Director
Ronald Hollister, Jail Administrator John
Vandermosten, Medical Director Dr. Lutz,
Physicians Assistant Rae, and Nurse
Practitioner Putnam,

Defendants.

C/A No. 2:18-CV-02315-JFA-MGB

ORDER

The *pro se* Plaintiff brings that action pursuant to 42 U.S.C. § 1983 alleging various claims against Defendants and seeking money damages.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein she suggests that this Court should dismiss Plaintiff's claims against Defendant Dr. Lutz pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for lack of prosecution. (ECF No. 30).

The Report sets forth in detail the relevant facts and standards of law on this matter, and the Court incorporates such without a recitation.

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

On December 12, 2018, Defendant Dr. Lutz filed a Motion to Dismiss. (ECF No. 21). On December 13, 2018, this Court issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying Plaintiff of the dismissal procedure and possible consequences if Plaintiff failed to adequately respond to the motion. (ECF No. 22). Plaintiff failed to respond to the motion. On January 18, 2019, this Court issued an order extending the deadline for Plaintiff to respond to Defendant's motion until February 8, 2019 (ECF No. 28); however, Plaintiff has still failed to respond.

Plaintiff was also advised of his right to file objections to the Report and Recommendation, which was entered on the docket on February 19, 2019. (ECF No. 30). However, Plaintiff did not file objections and the time within which to do so has now expired. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

The Magistrate Judge has allowed Plaintiff ample time to respond to the Court's orders and Defendant's motion, yet Plaintiff has failed to do so. On December 3, 2018, and again on December 17, 2018, Plaintiff provided this Court with his new permanent address. (ECF Nos. 20 & 25).¹ A review of the docket reveals that Plaintiff has not notified the Clerk of any subsequent address change since then. This Court mailed (1) the *Roseboro* Order, (2) the Order extending Plaintiff's time to respond to Dr. Lutz's Motion to Dismiss, and (3) the Report and

¹ On December 3, 2018, and again on December 17, 2018, Plaintiff provided this Court with the same permanent address.

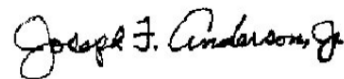
Recommendation and notice directing Plaintiff to file objections by March 5, 2019 to the address Plaintiff provided to this Court. Further, although recent mail containing an Order on Notice of Request for Protection from Court Appearance and a subsequent motion for summary judgment has been returned to this Court as undeliverable (ECF Nos. 37 & 41), none of the mail returned as undeliverable contained this Court's orders relating to Defendant Dr. Lutz's Motion to Dismiss.²

After carefully reviewing the applicable laws and the record in this case, this Court accepts the Magistrate Judge's Report and Recommendation and finds that that the Report fairly and accurately summarizes the facts and applies the correct principles of law. This Court agrees with the Magistrate Judge that Plaintiff's claims against Defendant Dr. Lutz meet all of the criteria for dismissal under Rule 41(b). *See Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989); *Davis v. Williams*, 588 F.2d 69 (4th Cir. 1978).

Accordingly, Plaintiff's claims against Defendant Dr. Lutz are **dismissed with prejudice** for lack of prosecution pursuant to Rule 41(b).

IT IS SO ORDERED.

May 15, 2019
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

² In any event, even if the returned mail related to this matter, a review of the docket reveals that Plaintiff has not notified the Clerk of any new address change since December 17, 2018.